

**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

ANTHONY LADEL OLIVER,

Plaintiff,

v.

TINGLEY, *et al.*,

Defendants.

Case No. 1:22-cv-00071-AWI-BAM (PC)

ORDER REGARDING PLAINTIFF'S  
MOTION TO DISMISS THIS ACTION

(ECF No. 13)

Plaintiff Anthony Ladel Oliver ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action under 42 U.S.C. § 1983. On April 13, 2022, the Court screened the first amended complaint and issued findings and recommendations recommending dismissal of this action based on Plaintiff's failure to state a cognizable claim upon which relief may be granted. (ECF No. 12.) On April 25, 2022, Plaintiff filed a motion to dismiss this action, without prejudice, pursuant to the Federal Rules of Civil Procedure. (ECF No. 13.)

"[U]nder Rule 41(a)(1)(i), a plaintiff has an absolute right to voluntarily dismiss his action prior to service by the defendant of an answer or a motion for summary judgment." *Commercial Space Mgmt. Co., Inc. v. Boeing Co., Inc.*, 193 F.3d 1074, 1077 (9th Cir. 1999) (quotation and citation omitted). "[A] dismissal under Rule 41(a)(1) is effective on filing, no court order is required, the parties are left as though no action had been brought, the defendant can't complain, and the district court lacks jurisdiction to do anything about it." *Id.* at 1078. No defendant has

1 been served in this action and no defendant has filed an answer or motion for summary  
2 judgment.

3 Accordingly, this action is terminated, without prejudice, by operation of law without  
4 further order from the Court. Fed. R. Civ. P. 41(a)(1)(A)(i). The Clerk of the Court is directed to  
5 terminate all pending motions and deadlines, including the pending findings and  
6 recommendations, and close this case.

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8 IT IS SO ORDERED.

9 Dated: April 26, 2022

/s/ Barbara A. McAuliffe  
10 UNITED STATES MAGISTRATE JUDGE  
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